

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ERASTO ARROYO BARCENAS, et al.,
Plaintiffs, Individually and on
Behalf of the Class of Those
Similarly Situated,

V.

**STEVEN MCCRAW in his individual capacity, et al.,
Defendants.**

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Case No. 1:22-cv-00397-RP

DEFENDANTS' UNOPPOSED MOTION TO AMEND SCHEDULING ORDER

TO THE HONORABLE JUDGE ROBERT PITMAN:

NOW COMES Defendants Steven C. McCraw, Greg Abbott, Bryan Collier, Brad Coe, and Kinney County, Texas (“Defendants”) who file this unopposed motion to amend the Court’s scheduling order. Plaintiffs Erasto Arroyo Barcenas, Melvin Amador Rodas, Ivan Ruano Nava, Nolis Leyva-Gonzalez, Jose Carlos Gomez-Colorado Jose Luis Dominguez-Rojas, Melvin Amaya Zelaya, Jesus Curipoma, Oscar Serrano Martinez, Christian Ivan Ruiz-Rodriguez, Israel Baylon Arellano, Jose Lopez Lozano, Miguel Lopez Lozano, Francisco Villalpando Ramos, and Cesar Galindo Escoto (“Plaintiffs”) filed their Original Complaint on April 27, 2022. ECF No. 1. Subsequently, the Parties jointly moved for entry of a scheduling order setting a single deadline for Defendants’ responsive pleading(s), as well as responses and replies thereto, which the Court granted. ECF Nos. 7, 8. Plaintiffs amended their pleading (ECF Nos. 9, 10), to which Defendants filed an unopposed motion to amend the scheduling order (ECF No. 11) that the Court granted (ECF No. 12).

Following review of Plaintiffs' operative pleading, Defendants' separate motions to dismiss, and the parties' responsive briefing, the Court found Plaintiff's Complaint did not meet Federal Rule of Civil Procedure 8's requirement for a concise pleading statement and ordered Plaintiffs to file an amended complaint. ECF No. 45. Plaintiffs have since filed their Third Amended Complaint. ECF No. 49.

STANDARD OF REVIEW

"When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion if . . . a request is made before[] the original time or its extension expires." FED. R. CIV. P. 6(b)(1). District courts have "broad discretion to grant or deny an extension." *Salts v. Eps*, 676 F.3d 468, 474 (5th Cir. 2012) (quoting Wright & Miller, Fed. Prac. & Proc. § 1165). "[A]n application for extension of time under Rule 6(b)(1)(A) normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party." Fed. Prac. & Proc. § 1165.

ARGUMENTS & AUTHORITIES

Defendants respectfully submit this unopposed motion to amend the Court's previous scheduling order, asserting that good cause exists for entry of a single deadline to govern Defendants' responsive pleadings (and responses and replies thereto) to Plaintiffs' Third Amended Complaint. Good cause exists for the extension and unified deadlines due to the length and complexity of the Amended Complaint, as well as in the interests of economy and efficiency for the Court and the Parties. As such, Defendants propose the following dates, which are agreeable to Plaintiffs:

1. Defendants' responsive pleading(s) shall be filed on or before June 30, 2023.

2. Plaintiffs' response to Defendants' responsive pleading(s), if any, shall be filed on or before August 9, 2023.
3. Defendants' reply in support of their responsive pleading(s), if any, shall be filed on or before August 25, 2023.

PRAYER

For these reasons, Defendants respectfully ask the Court to amend the prior scheduling order containing the aforementioned deadlines.

Respectfully submitted,

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Performing the Duties of the Attorney General

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ATTORNEYS FOR DEFENDANT

GOVERNOR GREG ABBOTT

CERTIFICATE OF CONFERENCE

I, Marlayna M. Ellis, hereby certify that on May 25, 2023, I corresponded via email with counsel for Plaintiffs, Susan E. Hutchinson, who confirmed Plaintiffs' non-opposition and indicated that the new deadlines proposed herein were acceptable on May 29, 2023.

/s/ Marlayna M. Ellis

Marlayna M. Ellis

Assistant Attorney General

Law Enforcement Defense Division

CERTIFICATE OF SERVICE

I, Marlayna M. Ellis, hereby certify that on May 31, 2023, a true and correct copy of the foregoing document was served via the Court's Electronic Case Filing System to all counsel of record.

/s/ Marlayna M. Ellis

Marlayna M. Ellis

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